IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9487 of 2004

Between:

1 S. Lakshminarayana S/o Rangarao
R/o Bapatla Town, Guntur District
2 S. Srinivasarao S/o Malleswara Rao
R/o Bapatla Town, Guntur District
3 M. Masthan Rao S/o Chakrapani
R/o Bapatla Town, Guntur District
4 S.Sreenu S/o Rangarao
R/o Bapatla Town, Guntur District
5 G. Bhavani Prasad S/o Suryanarayana
R/o Bapatla Town, Guntur District
6 G. Sivarama Krishna S/o Suryanarayana
R/o Bapatla Town, Guntur District
7 Akula Venkateswarlu S/o Subbarao
R/o Bapatla Town, Guntur District

..... PETITIONERS

AND

1 The Station House Officer, Bapatla Town Police Station,
Bapatla, Guntur District (Crime NO. 80/2004)
2 Ade Salmonraju S/o Rattaiah
R/o Hayyanna Nagar, Bapatla, Guntur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue rule nisi calling for the entire records leading upto and inclusive of F.I.R. in Crime No. 80/2004 dated 4-5-2004 on the file of the Station House Officer, Bapatla Town Police Station, Guntur District, and quash the same by issuing as appropriate Writ, order or direction in the nature of Certiorari

Counsel for the Petitioners: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent No.1: GP FOR HOME
Counsel for the Respondent No.2: Mr. K.Balagopal

The Court made the following ORDER:

The petitioners herein, who are the accused in Crime No.80 of 2004, on the file of the Station House Officer, Bapatla Town Police Station, Guntur district, filed this writ petition *inter alia* seeking writ of *mandamus* to quash the proceedings including the F.I.R. in the said crime.

The main grievance of the petitioners is that the said crime was registered for various offences including F.I.R. under Section 3(1)(x) of S.C & S.T (Prevention of Atrocities) Act, 1989 (for short 'the Act'). However, having regard to the fact that the said offences alleged to have been taken place in a Timber Depot, which is not in public view, as held by this Court in **Bharat Petroleum Corporation Ltd., Mumbai and others v. Union of India and others**a n d **J. Sumana v. Endluri Aseerwadamma and another**. Therefore, no criminal case has been made out to proceed against them. Hence, the entire proceedings are liable to be set aside.

The learned counsel for the petitioners contended that having regard to the nature of allegations, no case has been made out against the petitioners. Therefore, they could not have been roped in a false case, which has been foisted against them.

The learned counsel appearing for the *de facto* complainant, i.e., second respondent herein, submitted that having regard to the fact that enquiry proceedings in the F.I.R. are still pending and the matter is under investigation it is still premature to come to a conclusion as such by this Court under Article 227 of the Constitution of India. It is also submitted that The offence took place in the office of a timber depot (saw mill). Whether it is a place in public view is a matter to be decided on the basis of evidence and not by analogy with a Government office or the office of a Public Sector Corporation as in the above decisions referred to by the learned counsel for the petitioner.

Having considering the submissions made and also on perusal of the material

available on record, the question is as to whether the Timber Depot is a place of public view as contemplated under the provisions attracting any individuals under the provisions of the Act. After all, it is a matter, which is still under investigation and conclusions are yet to be arrived at. It is no doubt true that in the aforesaid decision certain places like office of the Bharat Petroleum Corporation and also of the like nature were held to be known places of public view and therefore, the proceedings initiated under the aforesaid Act were quashed. But, I am not prepared to accept the contention made on behalf of the petitioners herein, at this stage, especially, when the matter is still under investigation. Many aspects have to be considered before the accused are being charged. The petitioners' involvement can only be known after the entire completion of the investigation and any conclusion at this stage will be premature.

Under the above circumstances, I do not find any merits in the writ petition and the same is accordingly dismissed. No costs.

B.Prakash Rao, J

Date: 17.08.2004

va/js

To

1 The Station House Officer, Bapatla Town Police Station,
Bapatla, Guntur District

2 Two CCs to G.P. for Home, High Court of A.P. Buildings,
Hyderabad (OUT)

3 Two CD Copies